



MISSOURI PROSECUTOR

MARCH 2006

Volume 13, Issue 3

CASELAW TOPICS

MISSOURI SUPREME COURT

State ex rel. Nixon, v. The Honorable Jay Daugherty - Postconviction Relief

MISSOURI EASTERN DISTRICT

State v. Clarence Steven Short III - Instructions – Lesser Included Offenses

State v. Zivan Christian - Sufficiency of Evidence – Felonious Restraint/Burglary

State v. Glen E. McGowan - Defendant's Failure to Testify – Direct Comment

MISSOURI WESTERN DISTRICT

State v. Jarrod R. McCleod - Possession of a Controlled Substance with intent to Deliver - Knowledge/Intent to Deliver

State v. Maria L. Brooks - Miranda Warnings – Custodial Interrogations

State v. Cedric Freeman - Jury Trial – Waiver by Defendant

David T. Nguyen v. State - Alford Plea – Factual Basis

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State v. Machele Slavens, a/k/a Machele Kelley, a/k/a Machele Martin - Kidnapping/Interference with Custody

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NOTES & NEWS

2006 DWI/VEHICULAR HOMICIDE CONFERENCE

The Missouri Office of Prosecution Services is pleased to announce its annual DWI/Vehicular Homicide Conference. The conference will be held from May 31-June 2, 2006, at Tan-Tar-A Resort.

This conference will cover topics of interest to prosecutors, law enforcement officers, and others interested in impaired driving issues. A tentative agenda and registration form are included in this newsletter on [pages 12-13](#).

Please contact Susan Glass or Bev Case at 573-751-0619 or 573-751-1629 with questions.

This conference is funded in cooperation with MoDOT Highway Safety.

2006 TRIAL ADVOCACY SCHOOL

The MOPS Trial Advocacy School will be held July 31-August 3, at the Capitol Plaza Hotel in Jefferson City. Please note that it is scheduled a week earlier this year than in past years.

Training dates, agendas, registration forms, and available CLE can be found on our website at <http://www.mops.mo.gov>

"Are You Ready? Public Health Emergencies and the Law"

This conference is for Professionals in Law, Healthcare, Government, Emergency Planning and Response, Law Enforcement & Business. The focus of this conference is on key legal response issues in epidemics, terrorist attacks and natural catastrophes.

"Are You Ready? Public Health Emergencies and the Law," will offer attorneys the opportunity to learn about the legal issues they will face in an emergency. The event will also give persons who are not attorneys the legal background they need to plan appropriate public health responses to emergencies.

The conference will be held May 18-20, 2006 at the Millennium Hotel, 200 South Fourth Street, St. Louis, MO. It opens with a reception on Thursday, May 18 at 6:00 p.m. Opening remarks will start at 8:30 a.m. on Friday, May 19. The conference will conclude on Saturday, May 20 at 2:45 p.m.

The conference is sponsored by the U.S. Department of Health & Human Services, the Centers for Disease Control & Prevention, the American Bar Association Health Law Section and Missouri Department of Health and Senior Services with other leading organizations.


For additional information, contact Debbie Nolan at 573-526-4768 or e-mail debbie.nolan@dhss.mo.gov.

PRINCIPLES OF FORENSIC DNA FOR OFFICERS OF THE COURT

MOPS has received a CD-ROM copy of Principles of Forensic DNA for Officers of the Court from the National Forensic Science Technology Center.


This CD-ROM is an interactive training program on the use of forensic DNA in judicial proceedings. Designed primarily for prosecutors, defense attorneys, and judges, it describes DNA technologies and the legal issues that arise when DNA evidence is presented in court.

To order copies of this CD-ROM, contact the National Criminal Justice Reference Service at www.ncjrs.gov or (800) 851-3420 (ask for NCJ 212399). The online version of this tutorial can be viewed at <http://www.dna.gov>. Or you may call the MOPS office to view our copy of the CD-ROM.




SAVE THE DATE!

Missouri
**Statewide Sexual Assault
Prevention Conference**



July 10-12, 2006
Capitol Plaza Hotel
415 West McCarty Street
Jefferson City, MO 65101
(573) 635-1234
Fax (573) 635-9485

 **KIDSFIRST**
Sponsored by
Missouri Department of Health and Senior Services
and Missouri KidsFirst



VICTIMS OF CRIME ACT (VOCA) GRANT—PRE-BID SEMINAR

The 2006 Victims of Crime Act grant pre-bid seminar will be held April 7, 2006 from 10:30 am to 1:30 pm in Room 492 of the Harry S. Truman Building located at 301 West High Street, Jefferson City, MO.

Agencies interested in applying for funds to assist in providing direct services to victims of crime in Missouri should attend to learn more about VOCA funding, funding availability, eligibility issues and requirements. No need to RSVP.

An application can be printed from the Department of Public Safety website at <http://www.dps.mo.gov> after April 1, 2006. Applications will not be provided at the pre-bid seminar.

Applications must be received by the Missouri Department of Public Safety, Office of the Director, no later than 4:30 pm on June 2, 2006 or postmarked no later than June 2, 2006. Faxed or e-mailed applications are not acceptable.

Questions? Call (573) 526-1464 or e-mail victimsgroups@dps.mo.gov.



The MOPS office has started an index of opinion topics included in the monthly Caselaw Update, beginning with October 2004. If you would like a copy, please contact Sheri at the MOPS office.

MISSOURI SUPREME COURT

► *Postconviction Relief*

State ex rel. Nixon, v. The Honorable Jay Daugherty, No SC87440 (Mo. Banc February 28, 2006). A motion under Rule 74.06(d) is not permitted to attack a judgment entered under Rule 24.035. Rule 74.06(d) applies only to judgments or orders entered in civil actions. The judgment was entered pursuant to Rule 24.035, which pertains to criminal actions. To allow a Rule 74.06(d) motion to apply to judgments under Rule 24.035 conflicts with the latter rule's purposes to provide a prompt method to correct error in criminal cases and to avoid stale claims. In a death penalty case, once a sentence of death is affirmed on direct appeal and except for a motion under Rule 24.035 or Rule 29.15, all matters affecting a death sentence are to be filed in the Supreme Court of Missouri and not in another state court. A Rule 74.06(d) motion filed in a state circuit court also frustrates this purpose.

MISSOURI EASTERN DISTRICT

► *Instructions – Lesser Included Offenses*

State v. Clarence Steven Short III, No. ED85918 (Mo. App. E.D. March 21, 2006). In a prosecution for murder in the second degree, in violation of section 565.021 RSMo, and endangering the welfare of a child in the first degree, in violation of section 568.045 RSMo, the Court properly refused an instruction on third-degree assault. Third-degree assault is not a lesser-included offense of first-degree endangering the welfare of a child because third-degree assault requires proof that the defendant knew the victim would regard the contact as offensive or provocative, which is not an element of first-degree endangering the welfare of a child.

► *Sufficiency of Evidence – Felonious Restraint/Burglary*

State v. Zivan Christian, No. ED84863 (Mo. App. E. D. February 28, 2006). There was sufficient evidence to convict defendant of felonious restraint. Whether a defendant's unlawful restraint exposes a victim to the risk of serious physical injury is to be determined from all

of the circumstances. The question is whether the defendant engaged in physical intimidation or violence, which, if repeated or carried further, could have seriously injured the victim or threats of or the propensity to commit violence which, if carried out, could have seriously injured the victim. Whether or not the victim actually suffered serious physical harm is not dispositive. Defendant dragged victim by the hair, punched her in the face, hit her, threw her on the floor, and threw her head against concrete. These are acts that, had they been repeated or carried further, could have seriously injured victim. By engaging in these acts of physical violence, defendant exposed victim to the risk of serious physical harm.

The State did not make a submissible case on burglary because it did not show that defendant entered a house for the purpose of committing the crime of resisting arrest when there was no evidence that law enforcement officers had attempted to make an arrest. However, the evidence was sufficient to convict defendant of the lesser-included offense of trespass in the first degree.

► *Defendant's Failure to Testify – Direct Comment*

State v. Glen E. McGowan, No. ED85114 (Mo. App. E.D. February 28, 2006). The trial court's refusal to grant a mistrial after the State improperly commented on Defendant's exercise of his right not to testify was an abuse of discretion requiring reversal. Here, when Defendant blurted, "He's lying," while Maddox was testifying, the State asked Defendant, "[Defendant], did you want to take the stand?" Defendant asked to approach the bench, where he promptly requested a mistrial. The trial court denied the request and indicated that it would not tell the jury to disregard the State's remark. While an accused may waive his statutory right to no reference to his failure to testify, such a waiver usually occurs when a defendant voluntarily elects to testify under oath or when a defendant testifies though not under oath. Although the State claims the defendant's outburst was an attempt to discredit a witness's testimony without defendant taking the stand, defendant's two-word statement did not open the door to the State's direct reference. Although the State's comment purported to respond to defendant's allegation of false testimony by a State witness, the State had other means available to it to curtail further unsworn comments by defendant, including the State saying something out of the presence of the jury and requesting the court to admonish and to warn defendant against future outbursts. The State's question here was not a fair response.



MISSOURI WESTERN DISTRICT

► ***Possession of a Controlled Substance with intent to Deliver - Knowledge/Intent to Deliver***

State v. Jarrod R. McCleod, No. WD64945 (Mo. App. W.D. March 21, 2006). Defendant was charged with one count of possession of a controlled substance with the intent to deliver, Section 195.211 following his arrest immediately after picking up a package from a Federal Express office that contained approximately 7 ½ ounces of marijuana. The evidence presented at trial sufficiently supported a finding by the jury that defendant was aware of the presence and nature of the marijuana in the package. Evidence that defendant had actual possession of the package containing marijuana gives rise to an inference that he had knowledge of the presence and character of the controlled substance. This inference that he was aware that the package contained marijuana was bolstered by the fact that rolling papers and a small bag of marijuana were found in his pocket and the fact that he fled from a police officer.

The Court reversed his conviction because possession of approximately 7 ½ ounces of marijuana was not sufficient, in and of itself, to establish beyond a reasonable doubt that he intended to deliver the marijuana to others. For the quantity alone to sufficiently support a finding, beyond a reasonable doubt, of intent to deliver or distribute the controlled substance at issue, the amount must be inconsistent with personal use. Testimony by police officers stating their opinion that 7 ½ ounces was a "sales amount" did not add enough to establish beyond a reasonable doubt that defendant intended to distribute the marijuana.

► ***Miranda Warnings – Custodial Interrogations***

State v. Maria L. Brooks, No. WD64887 (Mo. App. W.D. March 7, 2006). In this state appeal of a trial court's granting of a motion to suppress incriminating statements, the court found the State met its burden of showing that the defendant was not in custody while being interrogated prior to being advised of her *Miranda* rights during much of the interrogation. The State did not demonstrate that the defendant was timely warned of her *Miranda* rights at the point that it became "custodial" and also failed to demonstrate that the post-*Miranda* admissions should not be suppressed. Thus, the defendant's statements made after the interrogation became custodial, including those made after the *Miranda* warnings were given, were properly suppressed. The defendant's statements made prior to this point should not have been suppressed.

► ***Jury Trial – Waiver by Defendant***

State v. Cedric Freeman, No. WD64305 (Mo. App. W.D. February 21, 2006). Because the record failed to demonstrate with unmistakable clarity that defendant waived his right to a jury trial on the felony count of assault of a law enforcement officer, defendant's conviction for that count is reversed and remanded for a new trial. The record on appeal showed no written or oral waiver by defendant of his right to a jury trial on the felony count. Defense counsel ever announced to the trial court, either in the presence of defendant or outside his presence, that defendant was waiving his right to a jury trial.

► ***Alford Plea – Factual Basis***

David T. Nguyen v. State, No. WD64795 (Mo. App. W.D. February 21, 2006). The court properly accepted defendant's *Alford* plea because there was a factual basis to the plea. Defendant freely, voluntarily, and intelligently made an *Alford* plea. He acknowledged to the trial judge that he understood what was meant by an *Alford* plea and that pleading guilty was a better alternative than going to trial. Defendant knew the State was prepared to show that he left the party and returned with guns for the purpose of shooting at the party, and that he participated in the shooting. He acknowledged that the State had evidence of these basic facts.

MISSOURI SOUTHERN DISTRICT

► ***Kidnapping/Interference with Custody***

State v. Machele Slavens, a/k/a Machele Kelley, a/k/a Machele Martin, No. 26584 (Mo. App.S.D. March 10, 2006). The Court reversed defendant's conviction of class A felony of kidnapping, in violation of Section 565.110 and the class D felony of interference with custody, in violation of Section 565.150, when defendant removed her child, placed in protective custody of DFS, from a hospital. The court concurred with the eastern district's construction of Section 565.110(3) in *Spier v. State*, 174 S.W.3d 539, 542 (Mo.App. E.D. 2005), holding the Model Penal Code and Missouri's statutory scheme clearly illustrate that a parent taking their own child from a government agency is not considered "interfering with performance of any government or political function" under Section 565.110(3). Defendant could not be said to have interfered with the performance of any governmental or political function by removing her child. The Court reversed the conviction of interference with custody based on insufficient evidence that defendant knew that DFS had actually taken custody.



MISSOURI SOUTHERN DISTRICT continued

► ***Lesser Included Offense Instructions***

State v. Christopher Milo Whiteley, No. 26603 (Mo. App. S.D. February 28, 2006). The Court reversed defendant's conviction of attempted robbery in the second degree, and felony murder in the second degree, finding the trial court erred in not instructing the jury on assault in the third degree, as a lesser-included offense of attempted robbery in the first degree. Based on the victim's testimony, the jury could have believed that defendant was not attempting to take property of another; that he was attempting to receive payment of a debt he was owed. Based on this evidence, the jury could have concluded that although defendant's attempts at "self-help" were excessive, they did not constitute attempted robbery. The conviction of felony murder in the second degree, was based on defendant having been convicted of the felony offense of attempted robbery in the second degree. Had the jury been instructed on assault in the third degree, a misdemeanor, and had the jury found defendant guilty of that offense, it would not have supported the conviction for felony murder in the second degree which requires the killing that would support a conviction of felony murder in the second degree to have occurred "in the perpetration or the attempted perpetration of [a] felony."

► ***Child Molestation—Purpose of Sexual Arousal***

State v. Thomas A. Jensen, No. 26901 (Mo. App. S. D. February 24, 2006). There was sufficient evidence to support the conviction of child molestation in the second degree in that evidence supported a finding of a specific intent that he touched the alleged victim for the purpose of sexual arousal. Defendant's conduct before and after the incident supported the conclusion that Defendant, a restaurant manager, leaned against the victim, a waitress, for the purpose of sexual arousal.



New Funding Opportunities

OJJDP Training and Technical Assistance Program for Mentoring Initiative System Involved Youth

<http://ojjdp.ncjrs.gov/grants/solicitations/ttamentoring06.pdf>

DEADLINE: April 17

This program will provide training and technical assistance to the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) Mentoring Initiative for System Involved Youth. The initiative provides funds to enhance and expand existing mentoring strategies; programs to develop, implement, and pilot test mentoring strategies and programs designed for youth involved in the juvenile justice system, reentry, or foster care.

ELIGIBLE APPLICANTS: Public agencies (including state agencies, units of local government, public universities and colleges, and tribal governments) and private organizations (including secular and faith-based nonprofit organizations).

CONTACT: Scott Peterson, Program Manager, at 202-616-2368 or scott.peterson2@usdoj.gov.

OJJDP Mentoring Initiative for System Involved Youth

<http://ojjdp.ncjrs.gov/grants/solicitations/06mentoringinitiative.pdf>

DEADLINE: April 17

The initiative seeks to promote collaboration among community organizations and agencies committed to supporting mentoring services for such system involved youth. Its objective is to identify effective mentoring programs and determine how to enhance and expand these approaches for system involved youth.

ELIGIBLE APPLICANTS: Public agencies (including state agencies, units of local government, public universities and colleges, and tribal governments) and private organizations (including secular and faith-based nonprofit organizations).

CONTACT: Gwendolyn Williams, Program Manager, at 202-616-1611 or gwendolyn.williams@usdoj.gov.

DOJ/CCDO Weed and Seed

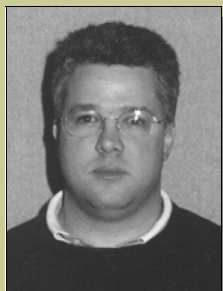
<http://www.ojp.usdoj.gov/ccdo/funding/2006WSNewSitesSol.pdf>

DEADLINE: May 11

The Department of Justice, Community Capacity Development Office's Weed and Seed program is a community-based initiative that encompasses an innovative and comprehensive multi-agency approach to law enforcement, crime prevention, and community revitalization.

ELIGIBLE APPLICANTS: Officially recognized Weed and Seed sites.

CONTACT: CCDO at 202-616-1152.



DEAN DANKELSON

Dean Dankelson was born in Ohio and moved to Connecticut at age 10. At 15, Dean's family settled in Joplin, MO where his father was the plant manager at FAG Bearings. (Anyone that has driven through Joplin on I-44 knows that is the real name of the company.)

He received a BSBA in Economics from the University of Missouri-Columbia and his J.D. from the University of North Carolina.

He was hired as an assistant prosecutor in January 1993 by, his predecessor, David Dally. He was later elected Prosecutor, taking office in January 1999. Dean says that he is more fortunate than most in that he inherited an office that was already doing outstanding work and he has tried to maintain the standard set by his predecessor. At the time he began his career in prosecution, he was "just happy to have the job." He says that he has remained with the office because it is the most rewarding work that he has ever done. In addition, he gets to work every day with the most outstanding people he knows.

Last summer he took his oldest son Joseph (then age 7), to watch circuit court. When a defendant from jail was brought in an orange jump suit his son asked if he was "a bad guy." Dean told him "maybe, but he could be a good guy who has just done something bad." Dankelson would tell new prosecutors that "we have a tremendous amount of discretion in how we handle cases. We need to use it wisely."

His proudest moment in office came in the case of State v. Faulkner. The defendant was involved in stalking and eventually sexually abusing 13 and 14 year old girls. After kidnapping and raping a girl, an investigative task force was formed and through many hours of investigation and the use of DNA evidence the defendant was arrested. He was tried, convicted and sentenced to 3 life terms plus 15 years.

When asked to recall his funniest moment as prosecutor, Dankelson remembers when he was a young assistant observing his first probation revocation hearing. When the judge asked the defendant if he knew what would happen to him in prison, the young defendant gave a somewhat graphic answer. Everyone in the courtroom laughed except the judge who calmly revoked the defendant's probation and sentenced him to prison.

Dankelson serves as Secretary/Treasurer of the Children's Center of Southwest Missouri Board of Directors, and is also on the Board of Directors of the Bulldog Youth Athletic Association and the Jasper County Drug Task Force.

When he is not wearing his prosecutor hat, you may find Dean at Missouri Southern State University, where he is a part time instructor—and once a season the "honorary coach" at a home basketball game. (A benefit of being an instructor.) Or you may find him coaching his own kids' games, and on occasion, playing a round of golf.

Dean and his wife Debbie have been married for 10 years. They have three children, Joseph-8, Katie-6, and Jeffery-5.

- ▶ **Favorite book:** *All About Me*, by Jeffery Dankelson. ("Not a best seller...but a good read.")
- ▶ **Favorite website:** <http://www.woot.com>
- ▶ **Favorite music/artist:** "I am stuck in the 80's...Stevie Ray Vaughn and Sting."
- ▶ **Favorite Sports Teams:** Missouri Tigers, North Carolina Tar Heels and the Cleveland Browns.



MOPS TRAINING 2006

April 12-14, 2006	MOPS Spring Statewide Training	Lodge of Four Seasons, Lake Ozark, MO
May 31-June 2, 2006	DWI/Vehicular Homicide Training	Tan-Tar-A Resort, Osage Beach, MO
July 31-August 3, 2006	Trial Advocacy School	Capital Plaza Hotel Jefferson City, MO
August 30-September 1, 2006	MOPS Fall Statewide Training	Lodge of Four Seasons, Lake Ozark, MO

NATIONAL CLE TRAINING April-May 2006

April 2006

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April 2-6	Office Administration Course	NCDA	Chicago, IL
April 3-7	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
April 3-7	Finding Words Virginia (Week #1)	APRI	Richmond, VA
April 6-8	NDA Board of Directors Meeting	NDA	San Diego, CA
April 9	APRI Board of Directors Meeting	APRI	San Diego, CA
April 10-13	Cross Examination	NDA	NAC, Columbia, SC ▼
April 18-21	Elder Abuse	NDA	NAC, Columbia, SC ▼
April 23-27	Meeting Challenges in Prosecution and Victim Advocacy	NCDA	San Diego, CA
April 25-28	Arson and Explosives	NDA	NAC, Columbia, SC ▼

May 2006

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May 1-5	Trial Advocacy II	NDA	NAC, Columbia, SC ▼
May 7-11	Prosecuting Homicide Cases	NCDA	Phoenix, AZ
May 8-12	Trial Advocacy I	NDA	NAC, Columbia, SC ▼
May 8-12	Finding Words Delaware (Week #2)	APRI	TBD
May 9-12	National Institute on the Prosecution of Domestic Violence	APRI	Miami, FL
May 16-19	Faculty Development	NDA	NAC, Columbia, SC ▼
May 21-25	Government Civil Practice	NCDA	Las Vegas, NV
May 22-25	Courtroom Technology	NDA	NAC, Columbia, SC ▼
May 23-25	Hitting the Mark II: Implementing and Maintaining Community Gun Violence Prosecution Initiatives	APRI	Minneapolis, MN
May 31-June 2	Cybercrime Summit	NDA	NAC, Columbia, SC ▼

NATIONAL CLE TRAINING June-September 2006

June 2006

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June 4-8	Criminal Investigations Course	NCDA	Reno, NV
June 5-9	Bootcamp: An Introduction to Prosecution	NDAA	NAC, Columbia, SC ▼
June 5-9	Investigation and Prosecution of Child Fatalities and Physical Abuse	APRI	San Antonio, TX
June 12-16	Trial Advocacy II	NDAA	NAC, Columbia, SC ▼
June 12-16	DNA: Basic	NDAA	NAC, Columbia, SC ▼
June 18-29	Career Prosecutor Course	NCDA	Charleston, SC
June 19-23	Trial Advocacy I	NDAA	NAC, Columbia, SC ▼
June 19-23	Finding Words Virginia (Week #2)	APRI	Richmond, VA
June 26-30	Lethal Weapon	NDAA	NAC, Columbia, SC ▼
June 26-30	Finding Words Arkansas (Week #2)	APRI	Rogers, AR

July 2006

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July 10-14	Cybersleuth II	NDAA	NAC, Columbia, SC ▼
July 10-14	ChildProtect: Trial Advocacy for Child Protection Attorneys	APRI	St Paul, MN
July 17-21	Prosecutor and the Jury	NDAA	NAC, Columbia, SC ▼
July 24-28	Trial Advocacy I	NDAA	NAC, Columbia, SC ▼
July 24-28	Equal Justice: Investigation and Prosecution of Child Abuse	APRI	Clearwater, FL
July 24-28	Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers		Columbia, MO
July 28-30	NDAA Board of Directors Meeting	NDAA	Santa Fe, NM
July 30-Aug 2	NDAA 2006 Summer Conference	NDAA	Santa Fe, NM
July 31-Aug 4	Trial Advocacy II	NDAA	NAC, Columbia, SC ▼

August 2006

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Aug 2-5	AGACL's Capital Litigation Seminar	AGACL	San Diego, CA
Aug 7-11	Trial Advocacy I	NDAA	NAC, Columbia, SC ▼
Aug 14-18	Unsafe Havens II	NDAA	NAC, Columbia, SC ▼
Aug 21-25	Trial Advocacy I	NDAA	NAC, Columbia, SC ▼
Aug 28-31	Cross Examination	NDAA	NAC, Columbia, SC ▼

September 2006

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Sept 6-8	Gangs Symposium	NDAA	NAC, Columbia, SC ▼
Sept 10-14	Evidence for Prosecutors	NCDA	Providence, RI
Sept 18-21	NDAA Fall Conference	NDAA	NAC, Columbia, SC ▼
Sept 25-29	Trial Advocacy I	NDAA	NAC, Columbia, SC ▼
Sept 25-29	Finding Words Arkansas (Week #3)	APRI	Rogers, AR
Sept 25-29	Finding Words Virginia (Week #3)	APRI	Richmond, VA

NATIONAL CLE TRAINING October-December 2006

October 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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Oct 8-12	National Conference on Domestic Violence	NCDA	Houston, TX
Oct 14-18	Executive Program	NCDA	Park City, UT
Oct 29-Nov 2	Prosecuting Drug Cases	NCDA	New Orleans, LA

November 2006

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Nov 12-16	Prosecuting Homicide Cases	NCDA	Savannah, GA
Nov 13-17	Finding Words Missouri - Presented by the MO Network Of Child Advocacy Centers		Union, MO
Nov 26-30	Prosecuting Sexual Assaults and Related Violent Crimes	NCDA	San Diego, CA

December 2006

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24	25	26	27	28	29	30
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Dec 3-8	Government Civil Practice	NCDA	Las Vegas, NV
Dec 10-14	Forensic Evidence	NCDA	San Francisco, CA

FOR INFORMATION ON NATIONAL COURSES: National District Attorneys Association (NDAA) - (703) 549-9222 <http://www.ndaa.org/>

American Prosecutors Research Institute (APRI) - (703) 549-4253 <http://www.ndaa-apri.org> National College of District Attorneys (NCDA) - (803) 705-5005 <http://www.law.sc.edu/ncda/>

▼ All expenses including accommodations, transportation and meals are covered or reimbursed by the NAC, and no tuition is charged.
Please remember that all applications must be signed by the Elected Prosecutor.

PROSECUTING ATTORNEY & CIRCUIT ATTORNEY'S RETIREMENT FUND

Board Members:

John Richards, *Lincoln County*
Bob George, *Lawrence County*
Kevin Barbour, *Butler County*
Kevin Crane, *Boone County*
Doug Roberts, *Livingston County*

For questions regarding the retirement system please contact:

Katrina Farrow, Executive Secretary
PO Box 104896
Jefferson City, MO 65110
Phone: (573) 556-7985
Fax: (573) 556-7986

MOPS.MO.GOV

The MOPS website contains conference information (ie. dates, registration, agenda and CLE credits), MOPS and Traffic Safety newsletter archives, the 2005 legislative summary, Prosecuting Attorney contact information and much more.

<http://www.mops.mo.gov/>



WITNESS PROTECTION ASSISTANCE IS AVAILABLE THROUGH THE MOPS OFFICE.
FOR INFORMATION, YOU MAY CALL SHERI AT (573) 522-1838.

MOPS STATEWIDE TRAINING AGENDA—SPRING 2006

There will be a
Buffet Dinner
Thursday
evening from
6:00–7:30 pm.

WEDNESDAY	TIME	EVENT
	8:30 am-5:00 pm	Registration
	9:00 am-11:00 am	Elected Prosecutor Roundtable
	11:00 am-12:00 pm	Legislative Roundtable

This conference
offers 17.5 hours of
CLE for attorneys,
including 2.4 hours
of ethics.

WEDNESDAY— APRIL 12, 2006	TIME	TOPIC	SPEAKER	GENERAL SESSION
	1:00 pm-2:00 pm	Immigration Consequences of Criminal Convictions	Dept of Homeland Security: Kim Kucik, Asst Chief Counsel, Chicago, IL & Jeffrey Othic, Special Agent, St. Louis, MO	
	2:00 pm-3:00 pm	Case Law Update	Shaun Mackelprang, Karen Kramer & Evan Buchheim, Assistant Attorneys General	
	3:15 pm-4:15 pm	Forensic Document Examination	Lynda Hartwick, BCFDE, Documents in Dispute, Inc.	
	4:15 pm-5:00 pm	Blueprint for Safer Roadways	Leanna Depue, Director, Missouri Division of Transportation, Division of Highway Safety	
	5:00 pm-5:15 pm	Referral of Minor in Possession Cases and other Issues	Peter W. Lobdell, Division of Alcohol and Tobacco Control, Department of Public Safety	SUPPORT STAFF
	1:30 pm-5:00 pm	Prosecutor Dialog	Jane Quick, CIT, Office of Prosecution Services	
	2:00 pm-3:00 pm	Criminal History Reporting	Kerry Creach, MO State Hwy Patrol & Scott Jones, Office of State Courts Administrator	
	3:15 pm-5:00 pm	Roundtable Discussion	Moderator: Debbie Belyew, St Charles County; Panel Members: Nena Kettler, Jefferson County & Kim Owen, Saline County	VICTIM SERVICES
	8:30 am-12:00 pm	Quarterly FSD/PA Meeting to include: Division FYI's; Legislative Updates; Update on Administrative Rules; Policy Updates; MACSS Updates for PA Staff; Field Issues	Speakers to be announced	
	1:00 pm-5:00 pm	Prosecutor Presentation to include: Changes in Supervision of Criminal Defendants Probation & Parole; Update in Law; Cooperative Agreements Reminder; Proposed Legislative Changes; Open Forum	Speakers will include: Jan Carter, Assistant Division Director, Dept of Corrections; Bill Abbott, District 10 Administrator, Springfield; & John Dockery, St. Louis City Circuit Attorney's Office	
THURSDAY— APRIL 13, 2006	8:30 am-9:45 am	Preventing Wrongful Convictions	Bob Milan, Assistant States Attorney, Cook County, Chicago, IL	GENERAL SESSION
	10:00 am-12:00 pm	When did we get the black hats? - Ethics in the Media Age (2.4 hours)	Herb Tanner, Prosecuting Attorney's Association of Michigan	
	1:00 pm-1:50 pm	Current Issues in Probation & Parole: Overview of Probation & Parole Operations; Electronic Monitoring & GPS as Supervision Tool; Intervention Fee Implementation	Department of Corrections—Scott Johnston, Chief State Supervisor; Richard Lee, Special Programs Administrator; Barne Ploch, Assistant Division Director	
	2:00 pm-2:30 pm	Inmate Population Trends (where were we—where are we now)	Terry Moore, Director, Division of Adult Institutions	
	3:00 pm-5:30 pm	Trends in Fire Investigations of Prosecutors	Bill Zieres, Regional Chief Investigator, State Fire Marshall's Office	
	8:30 am-10:00 am	Basic Yoga	Sue Ehelebe, RN, Lake Regional Hospital	SUPPORT STAFF
	10:15 am-11:15 am	DWI Tracking	Capt. Brad Jones, MO State Hwy Patrol	
	11:15 am-12:00 pm	DWI Charging	Susan Glass, Traffic Safety Resource Prosecutor, MOPS	
	1:00 pm-2:00 pm	Domestic Extraditions Foreign Extraditions & Detainers	Lisa Kennedy & Jayne Woods, Assistant Attorneys General Cecily Daller & Roger Johnson, Assistant Attorneys General	
	2:00 pm-3:00 pm	Delinquent Tax	Kathy Cowgill, Boone County Prosecutor's Office & Janice Jamison, Division of Taxation, Dept of Revenue	
FRIDAY— APRIL 14	3:15 pm-4:15 pm	Commitment Reports	Phyllis Byland & Jennifer Shankle, Dept of Corrections; Probation & Parole	GENERAL SESSION
	8:30 am-10:30 am	Voir Dire	Cliff Strider, Assistant District Attorney, 3rd Judicial, Ruston, LA	
FRIDAY— APRIL 14	10:45 am-12:00 pm	Cross-Examination of Witnesses	Cliff Strider	GENERAL SESSION

**MISSOURI OFFICE OF PROSECUTION SERVICES
SPRING STATEWIDE TRAINING
LODGE OF FOUR SEASONS, LAKE OZARK, MO
April 12-14, 2006**

NAME _____ **TITLE** _____

COUNTY _____ **TELEPHONE** _____

ADDRESS _____

CITY _____ **ZIP** _____

Room Accommodations

Rate: \$ 69.01 Single/Double/Triple/Quad (inclusive of tax)
2 & 3 Bedroom Suites available—inquire with reservation desk

THE LODGE WILL RELEASE OUR BLOCK OF ROOMS APRIL 1

Early registration and direct billing is encouraged

Hotel Reservation: Call Lodge of Four Seasons at 1-800-843-5253 to make reservations. The reservation must be accompanied with either a one-night deposit or credit card guarantee. Direct billing to individual offices must be requested in writing to the hotel in advance of the convention date. (Include office tax-exempt letter). Room cancellations must be received 72 hours prior to arrival date. Any rooms not canceled by you will be your responsibility.

MOPS Registration Fee: NOTE: There will be a non-refundable registration fee of \$80.00 per person. The registration fee includes all meal functions. Please make checks payable to "MOPS Revolving Fund" and mail them to "Missouri Office of Prosecution Services" along with this registration form.

Food Functions: Family members are welcome to attend food functions at \$10.00 for each function they wish to attend. Please indicate below the meals and the number attending. Please be accurate as we base our guarantee on your response. No refunds will be made. The following food functions are scheduled:

1)	Thursday, April 13	(#)	Breakfast	7:00 - 8:15 a.m.
2)	Thursday, April 13	(#)	Lunch	12:00 - 1:00 p.m.
3)	Thursday, April 13	(#)	Buffet	6:00 - 7:30 p.m.
4)	Friday, April 14	(#)	Breakfast	7:00 - 8:15 a.m.

All other meals will be on your own

I will attend: General Session, Wed., Thurs. & Fri. _____
Support Staff Training, Wed. & Thurs. _____
Child Support Enforcement Training, Thurs. _____

Please return this form with your check for the registration fee and food functions for your family to:

Missouri Office of Prosecution Services
Spring Statewide Training
P. O. Box 899
Jefferson City, MO 65102

Please copy and distribute

MOPS DWI/Vehicular Homicide Conference
May 31-June 2, 2006; Tan-Tar-A Resort, Osage Beach, MO

The Missouri Office of Prosecution Services is pleased to announce its annual DWI/Vehicular Homicide Conference. This conference will cover topics of interest to prosecutors, law enforcement officers, and others interested in impaired driving issues. A tentative agenda and registration form are included. Please contact Susan Glass or Bev Case at 573-751-0619 or 573-751-1629 with questions. This conference will be eligible for CLE and POST credit.

Wednesday, May 31

- 12:00-1:00 Registration
1:00-2:30 Perspectives on DWI
 Nationally: *Susan DeCourcy, National Highway Traffic Safety Administration*
 In Missouri: *Scott Turner, Missouri Division of Highway Safety*
 A Victim's Story: *Michael Mann*
2:30-2:45 Break
2:45-3:45 The National Traffic Law Center: What It Can Do For You
 Elizabeth Earleywine, National Traffic Law Center
3:45-4:00 Break
4:00-5:30 DWI Courts: What They Are and Why They Work
 West Huddleston, National Drug Court Institute

Thursday, June 1

- 8:00-10:00 Caselaw Update and Issues With In-Car Cameras
 Jim Chenault, Missouri Department of Revenue
10:00-10:15 Break
10:15-12:15 Prescription Drug Abuse
 Travis Jones, St. Charles County Sheriff's Department
12:15-1:15 Lunch (provided)
1:15-3:00 The Ethics of DWI Investigations and Prosecutions
 Carol England, Callaway County
3:00-3:15 Break
3:15-5:00 A DWI Trial: Lessons to be Learned
 John Bauer, St. Charles County
 Travis Noble, Sindel, Sindel and Noble

Friday, June 2

- 8:00-10:00 Criminal History Reporting and the DWI Tracking System
 Kerry Creach, Missouri State Highway Patrol
 Scott Jones, Office of State Courts Administrator
 Brad Jones, Missouri State Highway Patrol
10:00-10:15 Break
10:15-12:00 Teamwork in DWI Investigations and Prosecutions
 Tom Kimball, Traffic Safety Resource Prosecutor, State of Tennessee

MISSOURI OFFICE OF PROSECUTION SERVICES
FUNDED BY THE MISSOURI DIVISION OF HIGHWAY SAFETY
DWI/VEHICULAR HOMICIDE CONFERENCE
Tan-Tar-A Resort, Osage Beach, MO
May 31- June 2, 2006

REGISTRATION FORM

NAME: _____

ADDRESS: _____

COUNTY: _____

TITLE: _____

AGENCY: _____

TELEPHONE NUMBER: _____

You will be responsible for the cost of your hotel room should you need one. We are holding a block of rooms at Tan-Tar-A Resort, Osage Beach, for Wednesday and Thursday nights. The room rate is \$79.00 per night inclusive of lodging tax. The block of rooms is available until April 30. After the 30th, it will depend on availability. You may make reservations by calling Tan-Tar-A at 1-800-826-8272. Be sure to mention that you will be attending the conference sponsored by The Missouri Office of Prosecution Services in order to secure our room rate. On Thursday, June 1, there will be a noon luncheon for attendees and speakers which is covered in the registration fee. Registration for this conference is \$60.00 per person. **Please make your check payable to "MOPS Revolving Fund."** The registration fee must be paid by May 30 in order to attend the conference. **This program is POST accredited for law enforcement officers.**

Please return this form along with your check for \$60.00 made payable to **MOPS Revolving Fund** to:

Missouri Office of Prosecution Services
DWI/Vehicular Homicide Seminar
P. O. Box 899
Jefferson City, Missouri 65102

Please copy and distribute throughout prosecutor offices and law enforcement agencies.

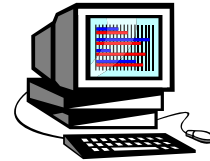
**Prosecutor Coordinators Training Council,
MAPA Officers:**

President: John Kay, *Moniteau County Prosecutor*
Vice-President: Kevin Crane, *Boone County Prosecutor*
Secretary: Mike Hazel, *Pemiscot County Prosecutor*
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Past President: Bob Wilkins, *Jefferson County Prosecutor*

Missouri Attorney General: Jay Nixon

Missouri Office of Prosecution Services:

Director: Elizabeth L. Ziegler
Traffic Safety Resource Attorney: Susan Glass
Conference Coordinator: Bev Case
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Part-time Secretary: Judy Brooks



***The Missouri Prosecutor is
available by e-mail in PDF format.***

If you are interested in receiving the
newsletter by e-mail or
wish to submit an article,
please notify Sheri at the MOPS office.

E-mail: Sheri.Menteer@ago.mo.gov

MISSOURI PROSECUTOR

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**MISSOURI OFFICE OF PROSECUTION SERVICES
PO BOX 899
JEFFERSON CITY, MO 65101**

***Mission Statement: To improve Missouri's Criminal Justice System by promoting professional prosecution by enhancing
funding and training for prosecutors; by advancing the interests and the image of Missouri prosecutors and to
facilitate communication among and between prosecutors and the criminal justice community.***